GENERAL PERMIT FOR STORM WATER DISCHARGES ASSOCIATED WITH MINING AND WITH OIL AND GAS ACTIVITIES

PERMIT NUMBER MTR300000

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

AUTHORIZATION TO DISCHARGE UNDER THE MONTANA POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with Section 75-5-101 *et seq.*, Montana Codes Annotated (MCA), Administrative Rules of Montana (ARM) 17.30.1301 *et seq*., and ARM 17.30.1101 *et seq*., applicants with an Authorization Letter for this *"General Permit for Storm Water Discharges Associated with Mining and with Oil and Gas Activities"* (hereafter called the "General Permit") are permitted to discharge storm water resulting from mining and oil and gas activity sites to surface waters in accordance with the conditions set forth in Parts I., II., III., IV., V., and VI. of this General Permit.

This General Permit shall become effective January 1, 2008.

This General Permit and the authorization to discharge shall expire at midnight, December 31, 2012.

FOR THE MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Bonnie Lovelace, Chief
Water Protection Bureau
Permitting & Compliance Division

Issuance date: _____

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PREAMBLE

This *General Permit for Storm Water Discharges Associated with Mining and Oil and Gas Activities*, hereafter called "General Permit," covers storm water discharges from various mining and oil and gas facilities. The intent of the General Permit is to minimize or eliminate waste discharge via storm water runoff from these mining and oil and gas facilities. Montana law defines various types of waste, including sediment, metals, petroleum products, etc. This General Permit is issued to ensure that discharges from regulated mining and oil and gas activities minimize the contact of storm water with potential pollutants.

Two main criteria determine whether a mining and oil and gas facility is eligible for coverage under this General Permit: the type of mining or oil and gas activity and the presence of a storm water discharge to surface waters from the facility. To obtain coverage under this General Permit, the owner or operator of a facility or site eligible for coverage shall:

1. Submit an application package including application form "SW-1", a Storm Water Pollution Prevention Plan (SWPPP), and appropriate fees.

2. Develop and implement a SWPPP as outlined in Part IV of this General Permit. The SWPPP will characterize the mining or oil and gas activity site, storm water discharges, potential pollutants which may affect storm water quality, and Best Management Practices (BMPs) to reduce and/or eliminate potential pollutants entering storm water runoff and surface waters.

3. Monitor storm water discharge from specified mining or oil and gas activities.

4. Implement BMPs and other provisions of the facility SWPPP.

5. Submit Discharge Monitoring Reports (DMRs) and an annual Compliance Evaluation Report (which includes an evaluation of the storm water quality test results) in order to assess facility storm water discharge quality and to verify BMP effectiveness.

A permit application fee to cover the cost of reviewing and acting upon the application shall be submitted with the application. Also, the permittee shall be required to pay an annual fee in order to cover the costs of administering the MPDES Program's permitting activities.

In the event that a facility is able to demonstrate that it has eliminated its storm water discharge through the implementation of engineered storm water controls and/or other management practices, the permittee may submit a request for termination of the Permit Authorization.

PART I. COVERAGE UNDER THIS GENERAL PERMIT

A. Coverage Area

The General Permit applies to all areas of the State of Montana, except for Indian Reservations.

B. Sources Covered Under this General Permit

The General Permit covers all new and existing "storm water discharges associated with mining and with oil and gas activities", as defined in Part VI of this General Permit. The following sources may be authorized under this General Permit:

1. Discharges of storm water from mining and milling activities (including active, inactive, or abandoned mine and mill sites) with SIC code Major Groups 10 (Metal Mining), 12 (Coal Mining), and 14 (Mining and Quarrying of Nonmetallic Minerals, Except Fuels), except those sources excluded under Part I.C. of this General Permit.

   Storm water discharges from oil and gas activities with SIC code Major Group 13 (Oil and Gas Extraction), to include: oil and gas exploration, production, processing, treatment, operation, or transmission facilities. This General Permit does not cover oil refineries.

2. Storm water discharges which occur from a facility or activity to state surface waters or a drainage system which carries storm water to state surface waters.

3. Storm water discharges which consist of runoff only from precipitation events, either rainfall or snowmelt, and which does not come into contact with materials, wastes, or wastewater subject to federal Effluent Limitation Guidelines (40 CFR Subchapter N).

4. Ground disturbance and construction activities which are inherently part of the development over time of the mining or oil and gas activity may be included.

This General Permit does not cover "storm water discharges associated with industrial activity", as defined in Part VI of this General Permit, which are covered under a separate MPDES permit.

Based on federal EPA and Montana regulations (definitions), the following two paragraphs summarize what storm water discharge areas are subject to (eligible) for permit coverage under this General Permit. However, many specific types of active mining facilities or sites have similar identified areas which are subject to federal Effluent Limitation Guidelines (ELGs) with respect to storm water discharges. ELG requirements supercede the following two paragraphs when applicable and will be discussed more below and in Part I.C. of this General Permit.

> *"Storm water discharges associated with mining and with oil and gas activities" pertains to mining and oil and gas activities that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts, or waste products located on the site of such operations. In general, such facilities include active and inactive mining operations, with a few exceptions as stated in the formal definition in Part VI of this General Permit. "Inactive mining operations" are also defined in the Part VI definition.*
>
> *The definition in Part VI for "storm water discharges associated with mining and with oil and gas activities" refers to the definition of "storm water discharges associated with industrial activity", for some similar requirements which are common to both definitions. To summarize, for regulated mining and oil and gas activities, the regulated area also includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of "process wastewaters" (as defined in Part VI of this General Permit); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.*

Discharges subject to federal ELGs as adopted by the Montana Board of Environmental Review in ARM Title 17, Chapter 30, Subchapter 12 would have to be covered under a separate Individual MPDES permit. ELGs for active mining activities include those for coal mining [40 CFR Part 434], mineral mining and processing [40 CFR Part 436], and ore mining and dressing [40 CFR Part 440].

The applicant must refer to pertinent regulations and determine what storm water discharges are eligible for permit coverage under this General Permit, and what storm water discharges are subject to ELGs and would be permitted under a separate Individual MPDES permit. In general, for mining activities subject to ELGs, ineligible storm water

discharges under this General Permit would include any storm water which comes into contact with the active mine area, including land application sites, ore, waste rock, haul roads, tailings storage, or any areas that store or handle mill process wastes. As stated above, these areas are similar to most of those areas stated in the italicized two paragraphs above. In Attachment A of this General Permit, the Department has included a table which exemplifies the applicability of 40 CFR Part 440 ELGs to discharges from active ore (metal) mining and dressing sites.

The applicant will need to evaluate their mining facility or site with respect to the applicability of this General Permit and it's various requirements. This includes clearly identifying eligible storm water discharges and associated information in the Storm Water Pollution Prevention Plan (see Part IV.A. of this General Permit).

C. Sources Excluded from Coverage Under this General Permit

1. The Department may deny authorization for discharge under this General Permit if the specific source filing for authorization appears unable to comply with:

   a. Effluent limitations or other terms and conditions of this General Permit,

   b. Water quality standards established pursuant to 75-5-301, MCA, and ARM Title 17, Chapter 30, Subchapters 5, 6, 7, and 10**,**

2. The following sources are excluded from coverage under this General Permit:

   a. Any discharge to which the Regional Administrator has objected to in writing,

   b. Discharges subject to federal ELGs as adopted by the Montana Board of Environmental Review in ARM Title 17, Chapter 30, Subchapter 12 (as discussed in Part I.B. of this General Permit).

   c. The storm water discharge is different in degree or nature from discharges reasonably expected from sources or activities within the category described in this General Permit,

   d. MPDES permit or authorization for the same operation has previously been denied or revoked,

   e. The discharge sought to be authorized under a MPDES permit is also included within an application or is subject to review under the Major Facility Siting Act, 75-20-101, *et seq*., MCA, or,

f. The point source is or will be located in an area of unique ecological or recreational significance. Such determination must be based upon considerations of Montana stream classifications adopted under 75-5-301, MCA, impacts on fishery resources, local conditions at proposed discharge sites, and designations of wilderness areas under 16 USC 1132 or of wild and scenic rivers under 16 USC 1274.

D. Sources seeking coverage under the General Permit after November 16, 2007

Unless excluded from coverage in accordance with Part I.C. or I.J. of this General Permit, owners or operators of mining or oil and gas activities or sites that may discharge storm water to state surface waters may obtain coverage under this General Permit by submitting a complete application package to the Department at the address given below. Applications submitted between November 16, 2007 and December 31, 2007 which are processed and result in issued authorizations prior to January 1, 2008 will be authorized under the November 17, 2002 General Permit until the new General Permit becomes effective. All new applications after November 1, 2007 must be completed on the new application form "SW-1".

1. The complete application package consists of:

   a. A completed application form using the standard application form provided by the Department and signed by the appropriate signatory based on the signatory requirements stated in Part V of this General Permit.

   b. A separate Storm Water Pollution Prevention Plan (SWPPP) which has been completed in accordance with the requirements identified in Part IV of this General Permit and signed by the owner/operator in accordance with the signatory requirements stated in Part V of this General Permit.

   c. The appropriate application fee as required by ARM 17.30.201.

2. Application Package Submittal

   A signed and complete application form, a signed and complete SWPPP, and the required application and annual fees must be submitted to the following address:

Department of Environmental Quality
Water Protection Bureau
P.O. Box 200901
Helena, MT 59620-0901

3. Department Processing of Application Package

If approved, the Department will issue a Permit Authorization Letter acknowledging the receipt of the complete application package. The date of this Permit Authorization Letter is when coverage under the General Permit formally initiates.

Incomplete or unsigned application submittals will be returned to the applicant and coverage under the General Permit is not effective until a complete application package is received. The source is not authorized under the General Permit until a complete application package is received by the Department.

Coverage under the General Permit remains in effect until the permittee submits a request for termination and all applicable fees have been paid. The request for termination must be signed by the owner or operator or other authorized person in accordance with Part V of the General Permit. The permittee is responsible for payment of annual fees for each calendar year in which the source is covered under the General Permit.

E. Sources Covered Under the 2002 General Permit – Continuing Coverage

In order to maintain coverage under the General Permit, all sources must submit a complete application form, updated SWPPP, and an application fee (ARM 17.30.201(5) schedule I.B) by November 16, 2007. The application must be submitted to the Department at the address provided in Part I.D. Coverage under the General Permit is terminated after November 16, 2007 unless a completed application form and fee have been received by the Department for the site.

When applying for renewal of General Permit coverage under this General Permit, all applicants are required to submit a complete updated SWPPP with the application form and fees. SWPPPs must be developed using reasonable land, soil, and water conservation practices and good standard engineering practices. They must include requirements stated in this General Permit and reflect current

conditions. The SWPPP must be signed in accordance with the stipulations stated in this General Permit. If still valid and up-to-date, prior SWPPPs can be used but will need to be updated to include a few new requirements in Part IV of this General Permit. This updated SWPPP which is submitted with the renewal application will replace and supercede all historical SWPPPs in active Department permit files for each permitted facility or activity.

Coverage under the General Permit remains in effect until the permittee submits a request for termination or the permittee fails to submit a complete application form by November 16, 2007. The request for termination must be signed by the owner or operator or other authorized person in accordance with Part V of this General Permit. The permittee is responsible for payment of annual fees for each calendar year in which the source is covered under the General Permit.

F. Amendments to Initial Application

The permittee is responsible to ensure that the application is correct and accurately reflects the current operation. Subsequent to authorization under this General Permit, in some cases information provided on the initial application will change during the General Permit term. Transfer of facility ownership (change of owner/operator or owner/operator name change) is addressed in Part I.G. of this General Permit as a "minor amendment".

If information on the application form changes to the extent that the nature of the business or activity changes with new SIC codes, or if outfalls are added or removed, then a "major amendment" would be required. This would require the submittal of a revised application form, a revised Storm Water Pollution Prevention Plan (SWPPP), and a fee for a "major amendment". Also, an increase in specified outfalls with an increase in additional receiving surface waters could require additional application and annual fee amounts to be submitted in addition to the aforementioned flat fee for the "major amendment".

If the facility or site contact person/position changes, then Part III.B.7. of this General Permit requires the owner/operator to notify the Department in writing within 15 days of the change, but no amendment fee is required.

G. Permit Transfers

General Permit coverage is not transferable to any person except after notice is given to the Department and a transfer fee is paid. Notice of transfer must be completed on

the Permit Transfer Notification (PTN) form provided by the Department and must be received by the Department at least 30 days prior to the anticipated date of transfer. The form must be signed by both the existing owner/operator and the new owner/operator following the signatory requirements in Part V of this General Permit. If the new permittee develops a new SWPPP, the new permittee shall implement the old SWPPP until the new SWPPP is developed and implemented (ARM 17.30.1117).

H. Notice of Termination

Where the storm water discharge has been eliminated, the owner/operator of the facility may submit a request for termination in writing that is signed in accordance with Part V of this General Permit. The request for termination must include the following information:

1. The facility or site name and location, mailing address of the mining or oil and gas activity site. Where a mailing address for the site is not available, the location of the site must be described by the latitude and longitude of the site (in degrees, minutes, and seconds);

2. The name, address, and telephone number of the owner/operator as identified on the application form;

3. The MPDES Permit Authorization Number as stated in the Permit Authorization Letter;

4. A detailed explanation and/or documentation which demonstrates and confirms the determination that the regulated storm water discharge has been eliminated; and,

5. The request for termination must be signed and certified in accordance with the requirements in Part V of this General Permit. The request for termination must be sent to the following address:

Department of Environmental Quality
Water Protection Bureau
P.O. Box 200901
Helena, MT 59620-0901

Failure to submit a request for termination shall result in accrual of annual permit

fees until this has been received by the Department.

Any owner or operator of a facility or site covered under this General Permit may request to be excluded from coverage under this General Permit by applying for an Individual MPDES permit. If a final Individual MPDES permit is issued to an owner/operator otherwise subject to this General Permit, coverage under this General Permit is terminated on the effective date of the Individual MPDES permit.

I. Fees

1. An application fee must be submitted with the application package and is based on the fee amounts and information stated in ARM 17.30.201.

2. Annual fees are based on the calendar year. Permittees are responsible for paying the annual fee for any calendar year, or portion thereof, for which they have an active storm water discharge authorization under this General Permit. A request for termination under Part I.G. of this General Permit is required to deactivate the accrual of annual fees.

3. The permittee is required to submit payment of an annual fee as set forth in ARM 17.30.201. If the permittee fails to pay the annual fee within 90 days after the due date for the payment, the Department may:

    a. Impose an additional assessment consisting of 15% of the fee plus interest on the required fee computed at the rate established under 75-5-516, MCA, or

    b. Suspend the processing of the application for a permit or authorization or, if the nonpayment involves an annual permit fee, suspend the permit, certificate or authorization for which the fee is required. The Department may lift suspension at any time up to one year after the suspension occurs if the holder has paid all outstanding fees, including all penalties, assessments and interest imposed under this sub-section.

J. Industrial No Exposure Certification

Pursuant to ARM 17.30.1116, discharges composed entirely of storm water are not regulated as discharges associated with mining or with oil and gas activity if there is

no exposure of industrial (mining or oil and gas) materials and activities to rain, snow, snowmelt, and/or runoff, and the discharger satisfies the conditions of this "Industrial No-Exposure Certification" rule. Consequently, permit authorization for storm water discharges normally regulated under this General Permit would not be necessary and owners/operators would submit an "Industrial No Exposure Certification Form" to the Department instead.

PART II. EFFLUENT LIMITATIONS

Effective immediately upon issuance of an authorization under this General Permit and lasting through the expiration date, the following specific conditions pertaining to effluent limitations shall apply.

A. There shall be no discharge of process wastewater pollutants to surface waters.

B. A discharge of storm water associated with mining or with oil and gas activity may occur based on water generated only through rainfall precipitation and snowmelt.

C. No discharge of storm water associated with mining or with oil and gas activity shall cause or contribute to a violation of water quality standards.

D. Discharges of storm water containing pollutants associated with mining or with oil and gas activity covered under this General Permit will be controlled through the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). Best Management Practices (BMPs) identified in the SWPPP must help eliminate or minimize the discharge of pollutants to surface waters.

E. New or increased storm water discharges associated with mining or with oil and gas activity on or after April 29, 1993 shall not cause degradation as described under ARM 17.30.715(3) and 75-5-301(5)(c), MCA.

PART III. MONITORING, REPORTING, AND RECORDS RETENTION REQUIREMENTS

A. STORM WATER DISCHARGE MONITORING

For those mining and oil and gas activities identified in Part III.A.2., storm water discharge sampling, testing, and reporting shall be a standard requirement under this General Permit. Standard Industrial Classification (SIC) codes may be obtained from the 1987 Standard Industrial Classification Manual or from websites referenced on the application form instructions.

For regulated mining and oil and gas activities in this General Permit, the Department reserves the right to require storm water sampling, testing, and reporting on a case-by-case basis. For each SIC code-based facility or activity, the monitoring tables in Part III.A.2. provide typical monitoring parameter requirements to be used or selected from in establishing actual sampling parameters for the facility. However, the Department will establish sampling parameter requirements using this and other information on a site-by-case basis. Additional monitoring parameters may be required for a facility by the Department on a site by site basis. Factors which may affect monitoring requirements could include, but are not limited to: expected potential pollutants from the particular facility or activity type, atypical industrial, mining, and/or oil and gas activities on site, SWPPP implementation effectiveness, storm water quality issues, potential contamination issues, historical issues, compliance issues, and other water quality issues.

Storm water monitoring requirements shall initiate on the effective date of authorization under this General Permit or as otherwise directed by the Department.

1. Storm/Sampling Event Characterization Requirements for All Mining or Oil and Gas Activities Required to Perform Storm Water Discharge Sampling, Testing, and Reporting

   For those mining or oil and gas activities required to perform sampling, testing, and reporting of storm water discharges under Part III.A.2. or as otherwise required by the Department, the following information shall be recorded and maintained at the permitted facility (refer to Part III.C.2.) for all storm water discharges which are sampled.

   a. Date, exact place, and time of sampling;

   b. Estimated duration (in hours) of the storm event(s) sampled;

c. Total rainfall measurements or estimates (in inches) of the storm event which generated the sampled runoff;

d. Name(s) of the individuals who performed the sampling or measurements; and

e. Analytical laboratory test result data and reports for storm water samples and/or records which minimally indicate:

i. The date(s) analyses were performed;

ii. The time analyses were initiated;

iii. The initials or name(s) of individual(s) who performed the analyses;

iv. References and written procedures, when available, for the analytical techniques or methods used; and

v. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.

2. Specific Mining and Oil and Gas Activity Monitoring Parameters

a. Facilities with the following Standard Industrial Classification (SIC) codes are required to monitor for the parameters listed in Table 1.

1011, 1061 - Iron and ferroalloy ores
1021, 1031, 1041, 1044 - Copper, lead, zinc, gold, and silver ores
1081 - Metal mining services
1094, 1099 - Miscellaneous metal ores.

Table 1. Metal Mining Effluent Monitoring Requirements

Parameter (1) (2)	**Frequency**	**Type** (3)
Total Suspended Solids (TSS), mg/l	Semiannual	Grab
Chemical Oxygen Demand (COD), mg/l	Semiannual	Grab
Nitrate + Nitrite Nitrogen, mg/l	Semiannual	Grab
pH, standard units	Semiannual	Instantaneous (4)
Copper, mg/l	Semiannual	Grab
Lead, mg/l	Semiannual	Grab

Manganese, mg/l	Semiannual	Grab
Zinc, mg/l	Semiannual	Grab
Estimated Flow, gpm	Semiannual	Instantaneous [4]
Oil and Grease [5], mg/l	Semiannual	Grab
And any other conventional, hazardous, or toxic substance that has been identified through sampling means.		

(1) Detection limits are pursuant to levels defined in WQB-7.
(2) Total recoverable methods to be used on all metals.
(3) See definitions in Part III.A.4 and Part VI of this General Permit.
(4) Estimated flow rates are appropriate in cases where measurement gauges are not installed.
(5) Hexanes extraction (EPA Method 1664 A).

b. Facilities that have the following SIC codes and that conduct activities not regulated by ELG limits are required to monitor for the parameters listed in Table 2.

1221, 1222, 1231, 1241 - Coal mining and coal mining related facilities

Table 2. Coal Mining Effluent Monitoring Requirements

Parameter [1] [2]	**Frequency**	**Type** [3]
Total Suspended Solids (TSS), mg/l	Semiannual	Grab
Chemical Oxygen Demand (COD), mg/l	Semiannual	Grab
Nitrate + Nitrite Nitrogen, mg/l	Semiannual	Grab
pH, standard units	Semiannual	Instantaneous [4]
Aluminum, mg/l	Semiannual	Grab
Iron, mg/l	Semiannual	Grab
Estimated Flow, gpm	Semiannual	Instantaneous [4]
Oil and Grease [5], mg/l	Semiannual	Grab
And any other conventional, hazardous, or toxic substance that has been identified through sampling means.		

(1) Detection limits are pursuant to levels defined in WQB-7.
(2) Total recoverable methods to be used on all metals.
(3) See definitions in Part III.A.4 and Part VI of this General Permit.
(4) Estimated flow rates are appropriate in cases where measurement gauges are not installed.
(5) Hexanes extraction (EPA Method 1664 A).

c. Facilities with the following SIC codes are required to monitor for the parameters listed in Table 3.

1442, 1446 - Sand and gravel mining
1455, 1459, 1474, 1475, 1479 - Clay, ceramic, refractory, chemical, and fertilizer minerals
1411, 1422, 1423, 1429, 1481, 1499 - Dimension, crushed stone, and non-metallic minerals.

Table 3. Industrial Minerals Mining Effluent Monitoring Requirements

Parameter [(1)]	**Frequency**	**Type** [(2)]
Total Suspended Solids (TSS), mg/l	Semiannual	Grab
pH, standard units	Semiannual	Instantaneous [(3)]
Estimated Flow, gpm	Semiannual	Instantaneous [(3)]
Oil and Grease [(4)], mg/l	Semiannual	Grab

(1) Detection limits are pursuant to levels defined in WQB-7.
(2) See definitions in Part III.A.4 and Part VI of this General Permit.
(3) Estimated flow rates are appropriate in cases where measurement gauges are not installed.
(4) Hexanes extraction (EPA Method 1664 A).

d. Oil and gas facilities that have had a discharge of a reportable quantity pursuant to 40 CFR (110.6), (117.21) or (302.6) are required to monitor for the pollutant of concern once application has been made to the Department. Oil and gas activities with the following SIC codes are required to monitor for the following parameters as listed in Table 4.

1311, 1321, 1381, 1382,-1389 - Crude petroleum, natural gas, natural gas liquids, oil and gas field services.

Table 4. Oil and Gas Industry Effluent Monitoring Requirements

Parameter [(1)]	**Frequency**	**Type** [(2)]
Total Suspended Solids (TSS), mg/l	Semiannual	Grab
Chemical Oxygen Demand (COD), mg/l	Semiannual	Grab
pH, standard units	Semiannual	Instantaneous [(3)]
Estimated Flow, gpm	Semiannual	Instantaneous [(3)]
Oil and Grease [(4)], mg/l	Semiannual	Grab

And any other conventional, hazardous, or toxic substance that has been identified through sampling means.

(1) Detection limits are pursuant to levels defined in WQB-7.
(2) See definitions in Part III.A.4 and Part VI of this General Permit.
(3) Estimated flow rates are appropriate in cases where measurement gauges are not installed.
(4) Hexanes extraction (EPA Method 1664 A).

3. Monitoring Frequency

Sampling, testing, and reporting shall be conducted at least semi-annually (two times per year) for industries classified under Parts III.A.2., except as provided by Parts III.B.2., Sampling Waiver, and III.B.3., Representative Discharge. It is recommended that samples not be collected from back-to-back storm events but that the sampled storm event represents runoff characteristic of typical site conditions.

For new authorizations issued under this General Permit, the first required monitoring period shall be the first complete Discharge Monitoring Report period following the date of the Permit Authorization Letter (see Part III.B.1.a.).

Frequency may be re-evaluated by the Department after a minimum of three monitoring periods of representative sample data have been collected. The Department may suspend the sampling requirement if after any three monitoring periods (representative sampling events), a facility can demonstrate the following conditions:

a. BMP implementation is satisfactorily reducing and minimizing the potential discharge of pollutants in storm water.

b. The storm water sampling test results for the parameters tested for under Part III. of this General Permit have not exceeded the Attachment B “June 2006 Monitoring Parameter Benchmark Concentrations”.

c. Storm water discharges have not resulted in being unable to attain a Total Maximum Daily Load (TMDL) or Waste Load Allocation which has been developed and approved by the Department for the receiving surface waters.

d. The permitted storm water discharge(s) does not cause, or have a reasonable potential to cause or contribute to, a violation of applicable water quality standards.

e. There have been no violations of the conditions and requirements in this General Permit.

f. There are no significant site characteristics, concerns, or problems (such as spills or releases) which could potentially allow pollutants to come into contact with storm water.

It is the responsibility of the permittee to research and provide documentation proving that the aforementioned conditions have been met. This documentation shall be included with a written request to the Department for suspension of monitoring requirements.

4. Sample Type

For all discharges, sampling data shall be obtained by collecting a grab sample. The grab sample shall be taken during the first thirty minutes of the discharge. If the collection of a grab sample during the first thirty minutes is impracticable, a sample can be taken during the first hour of the discharge, and the discharger shall submit attached to the Department Discharge Monitoring Report form a description of why a grab sample during the first thirty (30) minutes was impracticable.

A composite sample may be required or allowed by the Department on a site-by-site basis. If required or allowed, composite samples shall either be flow-weighted or time-weighted. Potential composite samples may be taken with a continuous sampler or as a combination of a minimum of three grab sample aliquots taken in each hour of discharge for the entire discharge or for the first three hours of the discharge, with each aliquot being separated by a minimum period of fifteen (15) minutes.

5. Sampling and Test Procedures

Samples, analytical testing, and measurements taken for the purpose of monitoring under Part III of this General Permit shall be conducted according to test procedures approved under 40 CFR, Part 136, unless other test procedures have been specified in this General Permit or approved by the Department.

6. Penalties for Tampering

The Montana Water Quality Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device, method, or practice required to be maintained under this General Permit shall, upon conviction, be punished by a fine of not more than $25,000 per day of violation, or imprisonment for not more than one year, or both.

7. Evaluation of Storm Water Quality Monitoring Test Results

On the completion of each sampling event and on receipt of the sampling test results by the permittee, the permittee shall evaluate each parameter test result by comparison with the Attachment B "June 2006 Monitoring Parameter Benchmark Concentrations". If there is an exceedance of the benchmark concentration, the permittee shall evaluate the source and reason of the exceedance and consider additional BMPs and/or other facility management measures which may need to be initiated to improve the quality of storm water discharges. These measures shall be implemented as necessary and updated in the facility SWPPP as required in Part IV.A. of this General Permit. A summary of this evaluation of storm water quality data, any exceedances of the benchmark concentrations, and additional BMPs and/or other measures which may be necessary shall be stated on the annual Compliance Evaluation Report form required to be submitted to the Department in Part IV.A. of this General Permit.

B. REPORTING REQUIREMENTS

1. Discharge Monitoring Reports

a. Permittees which are required to conduct sampling pursuant to Parts III.A.1. and III.A.2. of this General Permit shall submit monitoring results obtained during the previous six-month reporting period on a Discharge Monitoring Report (DMR) form(s), to be received by the Department no later than the 28th day of the month following the completed reporting period. The six-month semi-annual monitoring periods are from January 1 through June 30 and from July 1 through December 31. Consequently, the DMR forms are due on the 28th day of January and/or July following this respective monitoring period. For new authorizations issued under this General Permit, the first required monitoring period for which a respective DMR form must be completed and submitted shall be the first complete six-month semi-annual monitoring period following the date of the original Permit Authorization Letter.

b. DMR forms are provided by the Department. The DMR forms with the required signature shall be completed and submitted for each required point source discharge sampling location (outfall) for each required monitoring period. The DMR forms shall have all pertinent items completed, and shall comply with the signatory requirements stated in Part V of this General Permit. If sampling was not performed for any reason (see Part III.B.2., Sampling Waiver), the DMR form item shall be completed which provides

the justification/description required under Part III.B.2.

c. An original copy of the completed DMR form(s), with the required signature page(s) for each form, and all other reports required herein shall be submitted to the Department address below:

Department of Environmental Quality
Water Protection Bureau
P.O. Box 200901
Helena, MT 59620-0901
(406) 444-3080

d. The DMR forms contain a box in the upper right corner that is marked "no discharge". This box should not be checked unless on-site controls for storm water runoff prohibited and resulted in "no discharge" of storm water. If no samples were collected for a justified reason, as provided for in this General Permit, then the signed and submitted DMR form must be accompanied by documentation describing why no samples could be collected. The permittee is required to make a concerted effort to collect storm water samples and the Department assumes this is typically achievable. DMR submissions indicating "no discharge" without the required documentation will result in a violation of the permit authorization.

2. Sampling Waiver

The permittee is required to make a concerted and reasonable effort to collect storm water discharge samples. The Department typically expects that during the term of each monitoring period for the facility (usually six months), sufficient storm water discharge(s) will occur associated with various storm events such that the permittee will be able to obtain the required storm water samples at the point source discharge(s). However, the Department acknowledges that sometimes sampling of storm water discharges during and/or after storm events may not always be possible.

Examples where discharge sampling may not be reasonably performed include:

- No discharge, such as when the facility has engineered storm water retention/infiltration systems, the infiltration of precipitation into the ground surface is relatively high (low runoff coefficient), the facility site's drainage area is relatively small, extended drought, and/or extended frozen conditions);
- A relatively short duration storm event occurring outside of hours the facility is normally staffed and automatic sampling is impractical;
- Adverse climatic conditions such as weather, flooding, high winds, hurricanes, tornadoes, electrical storms, etc. that create dangerous

conditions for personnel; and

- Any other conditions which make the collection of a sample impractical.

During each respective six-month monitoring period, if the permittee is unable to sample storm water discharge related to a storm event, then the completed DMR form item shall provide the required justification/description of why samples could not be collected. This DMR form item justification/description shall include specific documentation of pertinent storm events and conditions which precluded the required sampling of storm water discharges at the point source discharge(s).

3. Representative Discharge

When a facility has two or more point source discharges (outfalls) that, based on a consideration of features and activities within the area drained by the outfalls, the permittee reasonably believes discharge substantially identical effluents, the permittee may test the effluent of one such outfall and report that the storm water quality data of such outfall also applies to the substantially identical outfall(s). In addition, for each outfall that the permittee believes is representative, the permittee shall provide: an estimate of the size of the drainage area in square feet; an estimate of the runoff coefficient of the drainage area – low (up to 40%), medium (≥40% to 65%), or high (≥65%); and an estimate of the percentage of the total mining or oil and gas activity drainage area on the site represented by the sampled outfall's mining or oil and gas activity drainage area. The mining or oil and gas activity drainage area pertains to those areas of the facility or site that actually discharge storm water from areas where the pertinent regulated mining or oil and gas activity under this General Permit is performed.

4. Noncompliance Reporting

If, for any reason, the permittee does not comply with or will be unable to comply with any condition specified in this General Permit, the permittee shall notify the Department within 24 hours of becoming aware of the noncompliance and provide the Department with the following information, in writing, within five calendar days of becoming aware of such condition:

a. A description of the noncompliance and its cause;

b. The period of noncompliance, including exact dates and times; or, if not identified, the anticipated time the noncompliance is expected to continue; and,

c. Additional measures being taken to reduce, eliminate, and prevent recurrences of the non-complying discharge or other cause of noncompliance.

The permittee must maintain a copy of the noncompliance report.

All reports, notifications, and inquiries regarding the conditions of this General Permit must be provided to the Department at:

Department of Environmental Quality
Water Protection Bureau
P.O. Box 200901
Helena, MT 59620-0901
(406) 444-3080

5. Additional Notification

Facilities with at least one storm water discharge associated with mining or oil and gas activity to a municipal separate storm sewer system (also called MS4), in addition to filing copies of monitoring reports with the Department, shall submit to the operator of the municipal separate storm sewer system signed copies of the monitoring results obtained during the previous respective monitoring period.

6. Penalties for Falsification of Reports

The Montana Water Quality Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this General Permit (including monitoring reports or reports of compliance) shall, upon conviction, be punished by a fine of not more than $25,000 per day, or by imprisonment for not more than six months per violation, or both.

7. Notification of Facility Contact Changes

The permittee shall notify the Department in writing of any change of the designated facility contact person/position, mailing address, and/or telephone number (as originally identified on the General Permit application form) within 15 calendar days of this change.

C. RECORDS RETENTION

1. Permit Retention Requirements

The permittee shall retain a copy of this General Permit, a copy of the Permit Authorization Letter to discharge storm water, and a copy of the Storm Water Pollution Prevention Plan (SWPPP) at the facility site at all times during the active permit coverage period authorized under this General Permit. If no permanent offices/buildings are located at the facility site, copies of these documents shall be retained at the office of the contact person identified in the permit application and at the office of the primary individual responsible for the implementation of the SWPPP (identified in the SWPPP through Part IV.A.) and shall be brought to the site at all times with these identified personnel. Should the identity of these responsible contacts/individuals change during the active permit authorization period, the permittee shall ensure measures are in place to transfer and familiarize replacement personnel with the requirements pertaining to these documents.

2. Required Period of Record Retention

The permittee shall retain, for a minimum of three years, records of all storm water monitoring information (including Part III.A.1. of this General Permit), all required reports and inspections, and all data used to complete the permit application package required in Part I.

PART IV. SPECIAL CONDITIONS

A. STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

A Storm Water Pollution Prevention Plan (SWPPP) shall be developed for each facility covered by this General Permit. The purpose of the SWPPP is to identify sources of potential pollution to storm water discharges and to select Best Management Practices (BMPs) to reduce the discharge of pollutants at the pollutant source and/or to remove pollutants contained in storm water runoff.

The SWPPP shall be developed and submitted with the application for authorization under this General Permit. For new applications, the SWPPP shall be implemented on the date the Authorization Letter under this General Permit is received. For new authorizations under this General Permit, the organization of the SWPPP typically should be completed based on the Part IV.A. outline below with the section heading in the outline being included and addressed in the SWPPP in the same order as in Part IV.A. of this General Permit. If a section is not applicable, a brief explanation of why it is not applicable shall be included. However, as SWPPPs are developed and implemented primarily for the use and benefit of the permittee, the Department will allow some flexibility in how the SWPPP is organized, but in any case, the SWPPP must address all criteria in the Part IV.A. outline below. If the permittee does elect to use a SWPPP format and outline different than that in this General Permit, then the permittee shall develop and submit an index that cross-references these Part IV.A. requirements and where each is addressed in the submitted SWPPP.

For those renewing General Permit coverage, there are a few new items in the SWPPP which must be addressed and incorporated into the updated SWPPP that is submitted with the renewal application.

If the mining activity site has storm water discharges subject to federal Effluent Limitation Guidelines, as discussed in Parts I.B. and C. of this General Permit, then the SWPPP and associated maps must clearly distinguish between storm water discharges regulated and eligible for coverage under this General Permit, and those not eligible or regulated under this General Permit (which would need to be covered under a separate Individual MPDES permit). This requirement pertains to both new and renewal applications and SWPPPs under this General Permit. Only those storm water discharges regulated under this General Permit are formally subject to the SWPPP and associated requirements under this General Permit.

The SWPPP shall be prepared in accordance with good engineering practices. Any SWPPP which requires engineered structures, such as detention ponds or diversion structures, shall be prepared by a registered professional engineer or similarly qualified

individual.

The permittee shall be responsible for developing and implementing the provisions of the SWPPP. The Department may elect to review the submitted SWPPP and could notify the permittee after review that the SWPPP does not meet one or more of the minimum requirements of Part IV.A. After such notification from the Department, the permittee shall make changes to the SWPPP and submit to the Department a written certification stating the requested changes have been made. Unless otherwise provided by the Department, the permittee shall have 30 days after such notification to make the required revisions to the SWPPP.

1. Administrative Requirements for the SWPPP

   The SWPPP shall:

   a. Be retained on site in accordance with Part III.C. of this General Permit.

   b. Be signed in accordance with the signatory requirements in Part V of this General Permit.

   c. Be maintained and kept up-to-date to reflect current conditions and information.

2. Responsible Storm Water Pollution Prevention Team

   The SWPPP shall identify the individual(s) within the facility organization responsible for developing the SWPPP and assisting facility personnel in its implementation, maintenance, and revision. The SWPPP shall describe the title and role of the individual(s) identified, as well as their responsibilities.

3. Description of Potential Pollutant Sources

   The SWPPP shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with mining or oil and gas activity from the facility. SWPPPs shall identify all activities which may potentially be significant pollutant sources, including loading or unloading of dry bulk materials or liquids, outdoor storage of raw materials and/or intermediary products, outdoor process activities, dust or particulate-generating processes, illicit connections and/or management practices, and waste management practices.

The SWPPP shall include, at a minimum, the following items:

a. Site Map

A site map which indicates the following for storm water drainage areas:

- Point source discharge(s), such as outfall(s);
- Each required point source discharge (outfall) sampling location with the formal number indicated on the map as designated on Discharge Monitoring Report forms;
- Natural and engineered (manmade) storm water drainage and management structures and features;
- A delineated outline of the drainage area of each storm water point source discharge/outfall;
- Delineated drainage patterns which clearly indicate the storm water runoff flow direction for the drainage area of each storm water point source discharge/outfall, such as using arrows to show which ways storm water will flow;
- Major permanent facility structures;
- The following activities where such activities are exposed to precipitation: processing and storage areas; access roads; railcars and tracks, the location of transfer of substance in bulk; major stationary equipment; and machinery;
- Paved and/or relatively impervious areas within the drainage area of each point source discharge/outfall;
- Each past or present area used for the outdoor treatment, storage, and/or disposal of significant materials (products and/or wastes);
- Each existing structural BMP to reduce pollutants in storm water runoff;
- Materials loading/unloading area(s);
- The following activities where such activities are exposed to precipitation: fueling stations; vehicle and equipment maintenance and/or cleaning areas; and liquid storage tanks;
- Each hazardous waste treatment, storage or disposal facility, including each area not required to have a Resource Conservation and Recovery Act (RCRA) Hazardous Waste Facility Permit for accumulating hazardous waste under 40 CFR 262.34;
- Water wells and wells where liquids associated with the facility are injected underground including any storm water conveyances;
- Location and source of runoff from adjacent property containing significant quantities of pollutants of concern to the facility (an evaluation of how the quality of the storm water running onto the facility site impacts the facility’s storm water discharge may be

included);

- Location where major spills or leaks identified in Part IV.A.3.d. of this General Permit have occurred;
- Springs;
- Surface waters (including perennial water bodies, intermittent/seasonal water bodies, and ephemeral drainage channels) including all receiving surface waters identified in Part IV.A.2.f. of this General Permit;
- A map scale; and
- A north arrow.

b. Drainage Patterns

For each area of the site which generates storm water discharges associated with mining or oil and gas activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of storm water runoff flow to the receiving surface waters.

c. Exposed Material Inventory

A narrative description of significant materials (products and/or wastes) which in the past have been and/or are currently treated, stored, or disposed in a manner allowing exposure to storm water; the method of treatment, storage or disposal of these materials; and past and/or present materials management practices employed to minimize contact of these materials with storm water runoff.

d. Spills and Leaks

A list of significant spills and leaks of hazardous substances which occurred at the facility up to three years prior to the effective date of this General Permit. Such a list shall be updated when a significant spill or leak of hazardous substances occurs and shall include a description of the specific origin and location of the release, a description of the materials released, an estimate of the quantity of the release, and a description of any remediation or cleanup measures which were taken.

e. Existing Storm Water Quality Data

A summary of existing storm water quality sampling test results characterizing historical pollutants in storm water discharges.

f. Receiving Surface Waters

The name of the receiving surface water(s) for storm water discharges, including perennial waterbodies, intermittent waterbodies, ephemeral streams, and wetlands. This shall include a detailed narrative description of the storm water runoff flow pattern from the mining or oil and gas activity site's storm water discharges into these receiving surface waters.

g. Risk Identification and Assessment, and Summary of Potential Pollutant Sources

The SWPPP shall include an inventory of the types of materials (products and wastes) handled, the location of material management activities, and the types of material management activities. This would include a narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and onsite waste disposal practices. The description must specifically list any significant potential sources of pollutants at the site and, for each potential source, any pollutant or pollutant parameter of concern must be identified. Factors to consider are the human health or ecological risk of chemicals; the quantity of chemicals used, produced, and/or discharged; the history of any MPDES permit violations; the history of significant leaks and/or spills of hazardous substances; and the characteristics and uses of the receiving surface waters.

4. Storm Water Best Management Practices (BMPs)

Each facility shall develop a description of storm water BMPs appropriate for the facility and implement such BMPs. The appropriateness and priorities of BMPs in a SWPPP shall reflect the identified potential sources of pollutants to storm water at the facility.

The description of storm water management BMPs shall address the following minimum components, including a schedule for implementing such BMPs:

a. Good Housekeeping

Good housekeeping measures to maintain a clean, orderly facility. Common potential problem areas to address would be waste management areas, storage areas, loading/unloading areas, and drums/tanks/containers. Measures could include a routine schedule for the managing/removal of waste materials, as well as routine inspections of these potential problem

areas.

b. Preventative Maintenance Measures

Preventative maintenance measures which include the inspection and maintenance of storm water management BMPs (cleaning oil/water separators, catch basins, etc.), as well as inspecting and testing facility equipment and systems to detect conditions which could cause breakdowns or failures resulting in potential discharges of pollutants to storm waters.

c. Spill Prevention and Response

Areas where potential spills could occur, and their accompanying drainage patterns and/or point source discharges, shall be clearly identified in the SWPPP. BMPs for spill prevention shall be developed to the extent possible. Procedures for cleaning up spills shall be identified in the SWPPP and be made available to appropriate facility personnel. The necessary equipment to implement a clean-up should be made available to facility personnel. Emergency spill/release contact and/or notification numbers shall be listed in the SWPPP.

d. Visual Inspections

Qualified personnel shall be identified to inspect designated equipment and facility areas following each significant storm water runoff event. Material handling areas shall be inspected for evidence of, or the potential for, pollutants entering the storm water drainage system. A tracking or follow-up procedure shall be used to ensure adequate response and corrective actions have been taken in response to the inspection. The permittee shall maintain records of inspections.

e. Employee Training

Facility personnel training programs which inform personnel at all levels of responsibility of the components and goals of the SWPPP. Training shall address topics such as spill response procedures, and proper material management and handling practices. A schedule shall identify the frequency for such training.

f. Record Keeping

Incidents such as spills, leaks, other releases of potential pollutants, and/or

other material/waste management problems, along with other information describing the quality and quantity of storm water discharges, shall be included in the records. Inspections and maintenance activities, such as cleaning oil and grit separators or catch basins, shall be documented and recorded.

g. Sediment and Erosion Control

The SWPPP shall identify areas which have a higher potential for soil erosion due to topography, slope characteristics, facility activities, and/or other factors. BMPs to control erosion and/or sediment shall be identified and implemented as necessary.

Note: Areas with little to no vegetative cover (0-25 percent) on slopes greater than or equal to 15 percent generally have a high potential for soil erosion. Your county Natural Resource Conservation Service office may be able to provide assistance with determining areas with high erosion potentials. A published soil survey can also provide this information.

The SWPPP may include the use of sediment basins, berms, barriers, filter strips, covers, diversion structures, sediment control fences, straw bale dikes, seeding, sodding, and/or other control structures or BMPs. The nature of the fill material to be used, the existing soils located at the site, and the aforementioned erodibility (high, moderate, or slight) of such soils shall be provided.

The SWPPP shall identify and locate the BMPs to be used during and after the ground disturbance project to control sediment discharges to surface waters. For the Sediment and Erosion Control section of the SWPPP, the permittee should refer to the SWPPP requirements associated with the Department's *General Permit for Storm Water Discharges Associated with Construction Activity*.

h. Storm Water Management

The SWPPP shall contain a description of, and an assessment of the appropriateness of, storm water BMPs other than source control of pollutants. This could include: run-on/runoff controls; diversion structures; flow attenuation by use of open vegetated swales, natural depressions, and other practices; appropriate inlet controls such as oil/water separators; snow management activities; ponds; infiltration devices; and, wet detention/retention devices including constructed wetlands. Where practicable, mining or oil and gas materials and

activities may be protected by a storm resistant shelter to prevent exposure to rain, snow, snowmelt, or runoff. BMPs determined to be reasonable and appropriate shall be implemented and maintained.

5. Comprehensive Site Inspection and Compliance Evaluation Report

A site inspection shall be conducted annually by appropriate personnel as identified in the SWPPP in order to verify:

a. the description of potential pollutant sources is accurate as required under Part IV.A.2.;
b. the site map has been updated or otherwise modified to reflect current conditions;
c. the BMPs to control potential pollutants in storm water discharges associated with mining or oil and gas activity as identified in the SWPPP are being effectively implemented; and
d. whether any SWPPP revisions such as additional BMPs are necessary.

A Compliance Evaluation Report shall be submitted to the Department by January 28th of each year and shall pertain to the Comprehensive Site Inspection performed during the preceding calendar year. The Department has developed a standard form to be used for the Compliance Evaluation Report including the certification and signature required under Part V of this General Permit.

The Compliance Evaluation Report shall summarize the scope and results of the Comprehensive Site Inspection, the name(s) of personnel making the Comprehensive Site Inspection, the date(s) of the Comprehensive Site Inspection, and major observations relating to the implementation of the SWPPP. Major observations should include: the location(s) of potential discharges of pollutants from the site; location(s) of BMPs that need to be maintained; location(s) of BMPs that failed to operate as designed or proved inadequate for a particular location; and location(s) where additional BMPs are needed that did not exist at the time of Comprehensive Site Inspection.

The Compliance Evaluation Report must identify any incidents of noncompliance. A tracking or follow-up procedure (including a schedule for implementation) shall be used to ensure adequate response and corrective actions have been taken in reply to the Comprehensive Site Inspection and/or noncompliances.

Where the Compliance Evaluation Report does not identify any incidents of noncompliance, the Report must contain a certification that the facility is in compliance with the SWPPP and this General Permit.

The Compliance Evaluation Report and any reports of follow-up actions must be signed in accordance with Part V of this General Permit. Records of the Comprehensive Site Inspection, the Compliance Evaluation Report, and any related follow-up actions shall be maintained by the permittee.

B. Water Quality Standards

This General Permit does not authorize storm water discharges that will cause, or have a reasonable potential to cause or contribute to, a violation of applicable water quality standards. If such is the case, the Department may notify an applicant or permitted discharger that MPDES permit coverage is necessary under an Individual MPDES permit instead of under this General Permit. The Department will require authorizations under the General Permit to ensure the SWPPP addresses BMPs and measures to help ensure compliance with water quality standards as necessary. This may include additional monitoring requirements to the authorized discharger. More specifically, depending on the actual mining or oil and gas activity storm water discharge and the receiving surface water(s), the permittee's SWPPP may need to include a section describing how the SWPPP will control discharges of pollutants of concern and ensure storm water discharges will not cause or contribute to instream exceedances of water quality standards.

C. Discharges to Water Quality Impaired Waters

1. Water Quality Controls for Discharges to Impaired Waterbodies

The permittee's SWPPP must include a section describing how the SWPPP will control discharges of pollutants of concern for which the receiving surface waters are listed as impaired waterbodies on the State's 303(d) list, and ensure storm water discharges will not cause or contribute to instream exceedances of water quality standards. This discussion must specifically identify measures and BMPs that will collectively control the discharges of pollutants of concern. Information on impaired waterbodies may be obtained through the Department website http://www.deq.mt.gov As of September 2007, the specific website link is **http://deq.mt.gov/cwaic/**

2. Consistency with Total Maximum Daily Load (TMDL) Allocations

If a TMDL has been approved for any waterbody into which the permittee discharges storm water, and the TMDL considered and addressed MPDES-regulated storm water discharges, then the Department shall incorporate the

Waste Load Allocation (WLA), as applicable, into the permittee's permit authorization under this General Permit, as required by 75-5-703, MCA. The typical default WLA for mining or oil and gas activity storm water discharges authorized under this General Permit will be to comply with this General Permit including SWPPP development and implementation, unless otherwise notified by the Department.

D. Releases in Excess of Reportable Quantities

This General Permit does not relieve the permittee of the reporting requirements of 40 CFR, Part 117 and 40 CFR, Part 302. The discharge of hazardous substances, as defined in ARM 17.30.1304(27), in the storm water discharge(s) from a facility shall be minimized in accordance with the applicable SWPPP for the facility and, in no case during any 24-hour period shall the discharge(s) contain a hazardous substance equal to or in excess of reporting quantities.

PART V. STANDARD CONDITIONS

The following standard permit conditions apply to all facilities authorized to discharge under this General Permit.

A. Duty to Comply

The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. The permittee shall give the Department advance notice of any planned changes at the permitted facility or of an activity, which may result in permit noncompliance.

B. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall first apply for and obtain a new permit. The application form and fee must be submitted at least 30 days before the expiration date of this permit. The Department reserves the authority to administratively extend permit coverage in the event the permit is no longer effective, if the permittee has reapplied for permit coverage.

C. Need to Halt or Reduce Activity not a Defense

It may not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance

procedures.

F. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

G. Property Rights

This permit does not convey any property rights of any sort, or any exclusive privilege.

H. Duty to Provide Information

The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

I. Inspection and Entry

The permittee shall allow the Department, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

J. Signatory and Certification Requirements

All applications, reports, or information submitted to the Department must be signed and certified.

1. All permit applications shall be signed as follows:

    a. For a corporation, by a responsible corporate officer. A responsible corporate officer means:

        i. a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or

        ii. the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

    b. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or

    c. For a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes:

        i. the chief executive officer of the agency; or

        ii. a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. All reports required by permits, other information requested by the Department, must be signed by a person described in Part V.J.1. or by a duly authorized representative of that person. A person is a duly authorized representative only if:

    a. the authorization is made in writing by a person described in Part V.J.1.;

    b. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field,

superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and,

c. the written authorization is submitted to the Department.

3. Changes to authorization. If an authorization under Part V.J.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part V.J.2. must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts V.J.1. or V.J.2. shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

K. Planned Changes

The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit.

L. Anticipated Noncompliance

The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

M. Compliance Schedules

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit must be

submitted no later than 14 days following each schedule date.

N. Twenty-Four Hour Reporting

1. The permittee shall report any noncompliance which may endanger health or the environment. Any information must be provided orally within 24 hours from the time the permittee becomes aware of the circumstances.

2. A written submission must also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

3. The following must be included as information which must be reported within 24 hours:

    a. any unanticipated bypass which exceeds any effluent limitation in the permit;

    b. any upset which exceeds any effluent limitation in the permit; and

    c. violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours.

4. The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Water Protection Bureau.

5. Reports shall be submitted to the address in Part III.B.1.c. of this permit.

O. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Part IV. or Parts V.K., V.M., or V.N. at the time monitoring reports are submitted. The reports must contain the information listed Part V.N. above.

P. Other Information

When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

Q. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2. and 3. below.

2. Notice:

   a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least 10 days before the date of the bypass.

   b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part V.N. (Twenty-Four Hour Reporting).

3. Prohibition of bypass.

   a. Bypass is prohibited and the Department may take enforcement action against a permittee for a bypass, unless:

      i. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

      ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,

      iii. The permittee submitted notices as required under Part V.Q.2. above.

4. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in Part V.Q.3.i.

R. Upset

1. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the

requirements of Part V.R.2. below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a. an upset occurred and that the permittee can identify the cause(s) of the upset;

   b. the permitted facility was at the time being properly operated;

   c. the permittee submitted notice of the upset as required in Part V.Q.3.b. (24-hour notice); and

   d. the permittee complied with any remedial measures required under Part V.D.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

S. Penalties for Violations of Permit Conditions

The Montana Water Quality Act provides that any person who violates a permit condition of the Act is subject to a civil penalty not to exceed $25,000 per day or one year in prison, or both, for the first conviction, and $50,000 per day of violation or by imprisonment for not more than two years, or both, for subsequent convictions. Except as provided in permit conditions under Part V.Q. (Bypass of Treatment Facilities), nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.

T. Penalties for Falsification of Reports

The Montana Water Quality Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than $25,000 per violation, or by imprisonment for not more than six months per violation, or both.

U. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act.

V. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

W. Reopener Provision

This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:

1. Water Quality Standards

   The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.

2. Wasteload Allocation

   A wasteload allocation is developed and approved by the Department and/or EPA for incorporation in this permit.

3. Water Quality Management Plan

   A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.

Part VI. DEFINITIONS

1. The "**Act**" means the federal Clean Water Act.

2. "**Best Management Practices**" ("BMPs") means schedule of activities, prohibition of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of state waters. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

3. "**Board**" means the Montana Board of Environmental Review established by 2-15-3502, MCA.

4. "**Coal pile runoff**" means the runoff from or through any coal storage pile.

5. The "**Department**" means the Montana Department of Environmental Quality.

6. "**Discharge monitoring report (DMR)**" means the Department uniform form for the reporting of self-monitoring results by permittees.

7. "**Facility or activity**" means any MPDES point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the MPDES program.

8. "**Flow-weighted composite sample**" means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.

9. "**General permit**" means an MPDES permit issued under ARM 17.30.1341 authorizing a category of discharges under the Act within a geographical area.

10. "**Grab Sample**" for monitoring requirements is defined as a single "dip and take" sample collected at a representative point in the discharge stream.

11. "**Landfill**" means an area of land or an excavation in which wastes are placed for permanent disposal, and which is not a land application unit, surface impoundment, injection well, or waste pile.

12. "**Land application unit**" means an area where wastes are applied onto or incorporated into the soil surface (excluding manure spreading operations) for

treatment or disposal.

13. "**Montana pollutant discharge elimination system (MPDES)**" means the system developed by the Board and Department for issuing permits for the discharge of pollutants from point sources into state waters. The MPDES is specifically designed to be compatible with the federal NPDES program established and administered by the EPA.

14. "**Owner or operator**" is defined at 75-5-103, MCA.

15. "**Permit**" means an authorization or license issued by EPA or an approved state to implement the requirements of this rule and 40 CFR Parts 123 and 124. The term includes an NPDES general permit (ARM 17.30.1341). The term does not include any permit that has not yet been the subject of final agency action, such as a "draft permit" or a "proposed permit".

16. "**Point source**" means a discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft, from which pollutants are or may be discharged.

17. "**Pollutant**" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural wastes discharged into water. The terms "sewage," "industrial waste," and "other wastes" as defined in 75-5-103, MCA, are interpreted as having the same meaning as pollutant.

18. "**Process Wastewater**" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

19. The "**Regional Administrator**" is the administrator of the EPA Region with jurisdiction over federal water pollution control activities in the State of Montana.

20. "**Runoff coefficient**" means the fraction of total rainfall that will appear at the conveyance as runoff.

21. "**Severe property damage**" means substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused

by delays in production.

22. "**Significant materials**" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metal products; raw materials used for food processing or production; hazardous substances designated under Section 101 (14) of CERCLA; any chemical the facility is required to report pursuant to Section 313 of Title III of SARA; fertilizers; pesticides; and waste products such as ashes, slag, and sludge that have the potential to be released with storm water discharges.

23. "**Significant spills**" includes, but is not limited to releases of oil, fuel, or hazardous substances in excess of reportable quantities under Section 311 of the Clean Water Act or Section 102 of CERCLA.

24. "**Site**" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

25. "**State waters**" is defined at 75-5-103, MCA.

26. "**Storm water**" means storm water runoff from precipitation, snowmelt runoff, and surface runoff and drainage.

27. "**Storm water discharge associated with industrial activity**" means a discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant.
    (a) For the categories of industries identified in this definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or by-products used or created by the facility; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters (as defined in this subchapter); sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials, and intermediate and final products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water.
    (b) For the categories of industries identified in (e)(ix) of this definition, the term includes only storm water discharges from all the areas (except access roads and rail lines) that are listed in the previous sentence where material handling equipment or activities, raw materials, intermediate products, final

products, waste materials, by-products, or industrial machinery are exposed to storm water.

(c) For the purposes of this definition, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, by-product, or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.

(d) Industrial facilities (including industrial facilities that are federally, state, or municipally owned or operated that meet the description of the facilities listed in (e)(i) through (ix) and (30)) include those facilities designated under the provisions of ARM 17.30.1105(1)(f).

(e) The following categories of facilities are considered to be engaging in "industrial activity" for the purposes of this definition:

(i) facilities subject to storm water effluent limitations guidelines, new source performance standards, or toxic pollutant effluent standards under 40 CFR subchapter N (except facilities with toxic pollutant effluent standards that are exempted under category (e)(ix) of this definition);

(ii) facilities classified as standard industrial classifications 24 (except 2434), 26 (except 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;

(iii) hazardous waste treatment, storage, and disposal facilities, including those that are operating under interim status or a permit under subtitle C of the federal Resource Conservation and Recovery Act (RCRA);

(iv) landfills, land application sites, and open dumps that receive or have received any industrial wastes (waste that is received from any of the facilities described under this definition, or under the definitions of "storm water discharge associated with mining and oil and gas activities," and "storm water discharge associated with construction activity" that will result in construction-related disturbance of five acres or more of total land area) including those that are subject to regulation under subtitle D of RCRA;

(v) facilities involved in the recycling of materials, including metal scrapyards, battery reclaimers, salvage yards, and automobile junkyards including, but not limited to, those classified as standard industrial classification 5015 and 5093;

(vi) steam electric power generating facilities, including coal handling sites;

(vii) transportation facilities classified as standard industrial classifications 40, 41, 42 (except 4221-25), 43, 44, 45, and 5171, which have vehicle maintenance shops, equipment cleaning operations, or airport deicing

operations. Only those portions of a facility that are involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, airport deicing operations, or that are otherwise identified under this definition are associated with industrial activity;

(viii) treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system, which is used in the storage, treatment, recycling, or reclamation of municipal or domestic sewage, including land dedicated to the disposal of sewage sludge that is located within the confines of the facility, and which has a design flow of 1.0 mgd or more or is required to have an approved pretreatment program under 40 CFR Part 403. Not included are farm lands, domestic gardens, and lands used for sludge management where sludge is beneficially reused and that are not physically located in the confines of the facility, and areas that are in compliance with section 405 of the federal Clean Water Act; and

(ix) facilities under standard industrial classifications 20, 21, 22, 23, 2434, 25, 265, 267, 27, 283, 285, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38, 39, and 4221-25, (and which are not otherwise included within (e)(i) through (e)(viii) of this definition).

28. "**Storm water discharge associated with mining and oil and gas activity**" means the same as the definition for "storm water discharges associated with industrial activity" except that the term pertains only to discharges from facilities classified as standard industrial classifications 10 through 14 (mineral industry) that discharge storm water contaminated by contact with or that has come into contact with, any overburden, raw material, intermediate products, finished products, byproducts, or waste products located on the site of such operations. Such facilities include active and inactive mining operations (except for areas of coal mining operations no longer meeting the definition of a reclamation area under 40 CFR 434.11(1) because the performance bond issued to the facility by the appropriate SMCRA authority has been released, and except for areas of non-coal mining operations that have been released from applicable state or federal reclamation requirements after December 17, 1990); and oil and gas exploration, production, processing, or treatment operations; and transmission facilities. "Inactive mining operations" are mining sites that are not being actively mined but that have an identifiable owner/operator, but do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials, nor sites where minimal activities are undertaken for the sole purpose of maintaining a mining claim.

29. "**Storm Water Pollution Prevention Plan (SWPPP)**" means a document

developed to help identify sources of pollution potentially affecting the quality of storm water discharges associated with a facility or activity, and to ensure implementation of measures to minimize and control pollutants in storm water discharges associated with a facility or activity. The department determines specific requirements and information to be included in a SWPPP based on the type and characteristics of a facility or activity, and on the respective MPDES permit requirements.

30. "**Surface waters**" means any waters on the earth's surface, including but not limited to streams, lakes, ponds, and reservoirs; and irrigation and drainage systems. Water bodies used solely for treating, transporting, or impounding pollutants shall not be considered surface water.

31. "**Time-weighted composite sample**" means a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval.

32. "**Total maximum daily load**" or "**TMDL**" is defined at 75-5-103, MCA.

33. "**Waste load allocation**" means the portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources.

34. "**Waste pile**" means any non-containerized accumulation of solid, nonflowing waste that is used for treatment or storage.

ATTACHMENT A

EPA REGION 8 - MAY 18, 1993

Applicability of 40 CFR Part 440 Effluent Limitations Guidelines to Discharges from Active Ore (Metal) Mining and Dressing Sites		
Discharge/Source of Discharge	Applicable ELG, if any (see key)	Note/comment
Land application area run-off	MD	PW – if Process fluids present
Crusher Area	MD	PW – if Process fluids present
Piles (seepage and/or runoff)		
Spent ore	MD	PW – if Process fluids present
Surge/Ore	MD	PW – if Process fluids present
Waste rock/overburden	MD	
Topsoil	SW	
Drainage		
Pit drainage (unpumped)	MD	
Pit drainage (removed by pumping)	MD	
Mine water from underground mines (unpumped), adit discharges	MD	
Mine water from underground mines (pumped)	MD	
Seeps/French drains	MD	PW – if Process fluids present
Roads constructed of waste rock or spent ore		
On-site haul roads	MD	
Off-site haul/access roads	SW	(if off Active Area)
Roads not constructed of waste rock or spent ore		
On-site haul roads	SW	MD – if dust control with MD water
Off-site haul/access roads	SW	
Milling/concentrating		
Tailings impoundment/pile	PW	
Run-off/seepage from tailings dams/dikes when constructed of waste rock/tailings	MD	PW – if Process fluids present
Run-off/seepage from tailings dams/dikes when not constructed of waste rock/tailings	SW	PW – if Process fluids present
Heap leach pile runoff/seepage	PW	

ATTACHMENT A - continued

Applicability of 40 CFR Part 440 Effluent Limitations Guidelines to Discharges from Active Ore (Metal) Mining and Dressing Sites		
Discharge/Source of Discharge	Applicable ELG, if any (see key)	Note/comment
Pregnant pond (barren and surge ponds also)	PW	
Polishing pond	PW	
Concentration building	SW	If storm water only, and no contact with piles
Concentrate pile (product storage)	PW	
Mill site	SW	Same as concentration bldg.
Ancillary areas		
Office/administrative building and housing	UC	Unless mixed with SW from industrial area, then SW
Chemical storage area	SW	
Docking facility	SW	Excessive contact with waste product could constitute MD
Explosive storage	SW	
Fuel storage (oil tanks/coal piles)	SW	
Vehicle/equipment maintenance area/building	SW	
Parking lots	SW	UC if only employee and visitor type parking
Power plant	SW	
Truck wash area	SW	Excessive contact with waste product could constitute MD
Reclamation-related areas		
Any disturbed area (unreclaimed)	MD	SW if inactive area
Reclaimed areas released from reclamation bonds after Dec. 17 1990	UC	
Reclaimed areas released from reclamation bonds prior to Dec. 17 1990	SW	
Partially/inadequately reclaimed areas or areas not released from reclamation bond	SW	

KEY:

UC – Unclassified; Not Subject to Storm Water Program or 40 CFR Part 440 Effluent Limitations Guidelines (ELG)

MD – Subject to 40 CFR Part 440 ELG for mine drainage

PW – Subject to 40 CFR Part 440 ELG for mill discharge or process (including zero discharge ELG).

SW – Subject to Storm Water Program, but not subject to 40 CFR Part 440 ELG

ATTACHMENT B
MONITORING PARAMETER BENCHMARK CONCENTRATIONS

DEPARTMENT OF ENVIRONMENTAL QUALITY
PERMITTING AND COMPLIANCE DIVISION
WATER PROTECTION BUREAU
June 2006

The Department of Environmental Quality's Water Protection Bureau typically uses the U.S. Environmental Protection Agency's (EPA) monitoring parameter benchmark concentrations in the evaluation of storm water quality and the effectiveness of BMPs utilized by permittees. Having parameter concentrations at or below these benchmark concentrations does not relieve the permittee from compliance with the Montana Water Quality Standards or nondegradation criteria.

The "benchmarks" are the pollutant concentrations above which EPA and/or Department determined represents a level of concern. The level of concern is a concentration at which a storm water discharge could potentially impair, or contribute to impairing water quality or affect human health from ingestion of water or fish. The benchmarks are also viewed as a level, that if below, a facility represents little potential for water quality concern. As such, the benchmarks also provide an appropriate level to determine whether a facility's SWPPP measures are successfully implemented. The benchmark concentrations are not effluent limitations and should not be interpreted or adopted as such.

These concentrations are levels which EPA and/or DEQ has used to assess storm water discharge and necessary monitoring from any given facility to insure that the facility has been successful in implementing a SWPPP. As such, these levels represent a target concentration for a facility to achieve through implementation of SWPPP measures at the facility. The following Table lists the parameter benchmark concentrations and the sources used for the benchmarks.

PARAMETER BENCHMARK CONCENTRATIONS

Parameter Name	Benchmark Level
Biochemical Oxygen Demand (5 Day)	30 mg/L
Chemical Oxygen Demand	120 mg/L
Total Suspended Solids	100 mg/L
Oil and Grease	10 mg/L
Nitrate + Nitrite Nitrogen	0.68 mg/L
Total Phosphorus	2.0 mg/L
Turbidity	50 NTU
pH	6.0-9.0 s.u.
Aluminum, Total (pH 6.5-9)	0.75 mg/L
Ammonia	19 mg/L
Antimony, Total	0.64 mg/L

Parameter Name	Benchmark Level
Arsenic, Total	0.15 mg/L
Beryllium, Total	0.13 mg/L
Cadmium, Total*	0.0021 mg/L
Chromium, Total*	1.8 mg/L
Copper, Total*	0.014 mg/L
Cyanide	0.022 mg/L
Iron, Total	1.0 mg/L
Lead, Total*	0.082 mg/L
Magnesium, Total	0.064 mg/L
Mercury, Total	0.0014 mg/L
Nickel, Total*	0.47 mg/L
Phenols, Total	0.016 mg/L
Selenium, Total	0.005 mg/L
Silver, Total*	0.0038 mg/L
Zinc, Total*	0.12 mg/L

* These pollutants are dependent on water hardness. The benchmark concentration listed is based on a hardness of 100 mg/L.

The source of this Table (with the exception of Oil & Grease) is the EPA's Proposed *2006 NPDES Multi-Sector General Permit (MSGP) for Stormwater Discharges Associated with Industrial Activity*. The Oil & Grease benchmark is a retained benchmark parameter used in prior EPA and Department General Permits. The Oil & Grease benchmark concentration of 10 mg/L is actually the receiving water standard but is used here for storm water quality purposes.